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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,973	06/10/2004	Andrew Scott Argersinger	GEMS 0242 PUS	3972
27256	7590	05/19/2006	EXAMINER	
ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034			RAMIREZ, JOHN FERNANDO	
			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/709,973	Applicant(s) ARGERSINGER ET AL.	
	Examiner John F. Ramirez	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

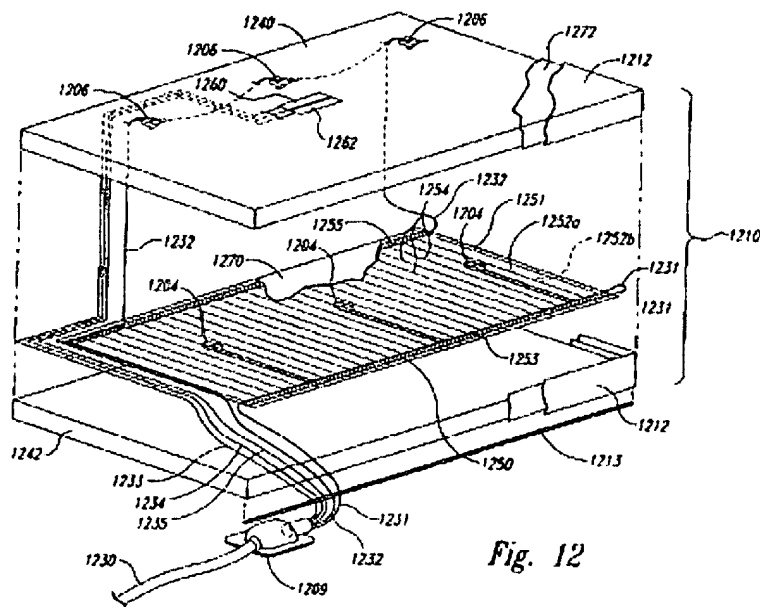
- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 5, 8, 11-14, and 18-20 are rejected under 35 U.S.C. 102(b) as being unpatentable over Klawitter et al. (US 5,081,657) in view of Wyatt et al. (US 6,967,309).



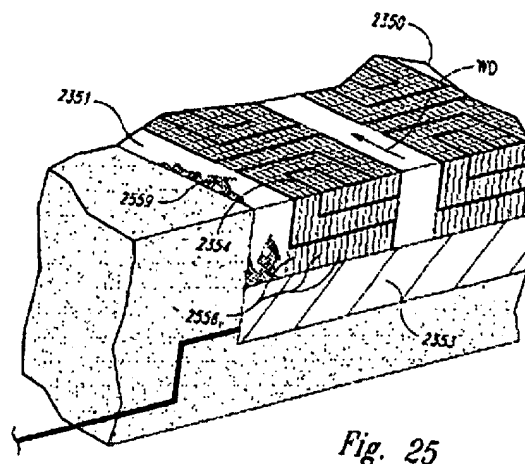
The Klawitter et al. patent shows in figures 1 and 2, all the limitations of the claimed subject matter except for mentioning specifically that there is a thermo sensor assembly positioned to monitor temperature at the patient exposure surface, a logic that is in communication with the thermo sensor assembly and the thermo generating element, and said logic adapted to remove power from the thermo generating element.

However, a thermo sensor assembly positioned outside the imaging region to monitor temperature at the patient exposure surface, a logic that is in communication with the thermo sensor assembly and the thermo generating element, and said logic adapted to remove power from the thermo generating element is considered conventional in the art as evidenced by the teachings of Wyatt et al.

The Wyatt et al. patent teaches, a thermo sensor assembly positioned to monitor temperature at the patient exposure surface, a logic (fig. 1, 120) that is in communication with the thermo sensor (fig. 12, 1260, 1262) assembly and the thermo generating element (fig. 12, 1250), and said logic (fig. 1, 120) adapted to remove power from the thermo generating element (col. 18, lines 27-46).

Based on the above observations, for a person of ordinary skill in the art, modifying the method disclosed by Klawitter et al., with the above discussed enhancements would have been considered obvious because such modifications would have enhanced to control the temperature of the heating pad at the patient exposure surface when it exceeds the temperature selected by the operator.

Claims 9, 10, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klawitter et al. in view of Wyatt et al. (US 6,967,309).



Klawitter et al., teaches all the limitations of the claimed subject matter except for mentioning specifically a thermo generating element that comprises: a heater array comprising a conductive polymer coating bonded to a film base and a protective film layer laminated to said film base, and wherein said conductive polymer coating comprises carbon flakes and a polymer.

However, a thermo generating element that comprises: a heater array comprising a conductive polymer coating bonded to a film base and a protective film layer laminated to said film base, and wherein said conductive polymer coating comprises carbon flakes and a polymer is considered conventional in the art as evidenced by the teachings of Wyatt et al.

The Wyatt et al. patent Shows in figures, 24A-D, a thermo generating element that comprises: a heater array (see Fig. 25) comprising a conductive polymer coating bonded to a film (col. 35, line 33-45) base and a protective film

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layer laminated to said film base, and wherein said conductive polymer coating comprises carbon flakes and a polymer.

Based on the above observations, for a person of ordinary skill in the art, modifying the method disclosed by Klawitter et al., with the above discussed enhancements would have been considered obvious because such modifications would have enhanced the diagnostic system by using a carbon-filled polymer heating element that is radiolucent. As a result, it will not obscure or otherwise impair x-ray images taken of a patient positioned on the heating pad.

Allowable Subject Matter

Claims 6, 7 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John F. Ramirez whose telephone number is (571) 272-8685. The examiner can normally be reached on (Mon-Fri) 7:30 - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JFR
04/18/06



BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700